

**REMARKS**

**Petition for Extension of Time Under 37 CFR 1.136(a)**

It is hereby requested that the term to respond to the Examiner's Action of September 25, 2007 be extended three months, from December 25, 2007 to March 25, 2008.

Authorization to charge a Credit Card is given to cover the extension fee. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 19-5425.

In the Office Action, the Examiner indicated that claims 1 through 20 are pending in the application and the Examiner rejected all of the claims.

**Rejections under 35 U.S.C. §§102 and 103**

On page 2 of the Office Action, the Examiner has rejected claims 1-3, 6-7, 11-13, and 16-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,105,776 to Tsuchiya et al., or in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,216,480 to Camus et al.

On page 4 of the Office Action, the Examiner has rejected claims 4 and 14 under 35 U.S.C. §103(a) as being unpatentable over Tsuchiya et al. and Camus et al., and further in view of U.S. Patent No. 5,994,789 to Ochiai et al. On page 5 of the Office Action, the Examiner has rejected claims 5 and 15 under 35 U.S.C. §103(a) as being unpatentable over Tsuchiya et al. and Camus et al., and has rejected claims 8-9 and 18-19 under 35 U.S.C. §103(a) as being unpatentable over Tsuchiya et al. and Camus et al., and further in view of U.S. Patent No. 5,844,398 to Kwan et al. On page 6 of the Office Action, the Examiner has

rejected claims 10 and 20 under 35 U.S.C. §103(a) as being unpatentable over Tsuchiya et al., Camus et al., and Kwan et al., and further in view of U.S. Patent No. 7,193,390 to Nagai et al.

### **The Present Invention**

The present invention provides a system and method by which intermediate and variable sources of energy can be accumulated and used as an effective source of power for various electrical devices which are battery powered. According to the present invention, the variable and intermittent energy source is supplied to an intermediate or first stage of energy storage. This first stage of energy storage is then connected via a battery charge management component to a second stage storage device in the form of an electro-chemical battery. The management component is activated when a predetermined threshold (“...sufficient energy in the first storage to efficiently charge the second storage...”) is met.

### **The Cited Prior Art Does Not Anticipate the Claimed Invention**

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

### **The Examiner Has Not Established a *Prima Facie* Case of Anticipation**

As noted above, the charge management electronics is activated when a threshold is met. The threshold is predetermined (see page 5, lines 12-19 of the application as filed). The control

logic permits the setting of various threshold values (page 6, lines 15-17) and this in turn allows, among other things, the use of the system with multiple battery types (page 7, line 1 to page 8, line 2).

This aspect of activating the charge management electronics is specifically claimed in each of the independent claims (e.g., claim 1, "...an electronic means which senses and monitors the energy accumulated in the first stage storage means and then activating a charge management electronics means when there is sufficient energy in the first stage storage to efficiently charge the second stage energy storage means."). Since Tsuchiya neither teaches nor suggests this claimed element, the claims patentably define over Tsuchiya and are in condition for allowance. Thus, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 USC §102.

**The Examiner Has Not Established a Prima Facie Case of Obviousness**

As set forth in the MPEP:

To support a rejection under 35 U.S.C. §103, a reason, suggestion, or motivation to lead an inventor to combine two or more references must be found. *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.*, 37 U.S.P.Q.2d 1627, 1629 (Fed.Cir. 1996). The Examiner has not met his burden in establishing a reason, suggestion, or motivation for combining the cited references.

The remaining references cited by the Examiner are cited for their asserted teachings of certain elements that the Examiner admittedly has not found in Tsuchiya, and the Examiner asserts that there is a suggestion in the cited references to combine the references to achieve the claimed invention. However, none of the remaining references, either alone or in combination, teach or suggest the claimed activation of the charging control element as is claimed in the

independent (and thus in the dependent) claims. Accordingly, for the reasons set forth above, the claims are not rendered obvious by the combinations proposed by the Examiner. Thus, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 USC §103.

**Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to applicant's Deposit Account No. 19-5425.

Respectfully submitted

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Date

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